REMARKS

A. Proposed Amendment to Drawings

On September 14, 2004, Applicants filed a proposed amendment for FIG. 3 where numeral "210" was replaced with the numeral "250." The Office Action mailed on January 18, 2005 has not indicated whether or not the amendment has been considered and entered. Accordingly, Applicants request that the amendment be considered and entered in the next Office Action.

B. Finality of Office Action

The Office Action mailed on January 18, 2005 was made final. Applicants traverse the finality of the Office Action. In particular, claims 31 and 35 were rejected in the Office Action mailed on June 14, 2004 as being anticipated under 35 U.S.C. § 102(e) by Clayton et al. Applicants filed an Amendment on September 14, 2004 wherein original dependent claims 31 and 35 were rewritten in independent form as new claims 63 and 73, respectively. The new claims 63 and 73 contained the same language as claims 31 and 35 if they were written in independent form. Despite the use of the identical language being used in claims 63 and 73, the January 18th Office Action rejected claims 31 and 35 under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Since the Applicants' Amendment is not the reason for the new rejection, the Office Action of January 18, 2005 cannot be made final. MPEP § 706.07(a). Accordingly, Applicants demand that the Finality of the Office Action be withdrawn and a new Office Action be rendered.

C. Objections to Claims

In the Office Action mailed on January 18, 2005, claims 35-38 were objected to for

depending directly or indirectly on canceled claim 29. Claim 35 has been amended so as to depend from claim 30 instead of claim 29. Accordingly, the objection has been overcome and should be withdrawn.

Since the amendment to claim 35 is being made to correct an obvious inadvertent error, the amendment is not related to patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002).

D. 35 U.S.C. § 103

1. Claims 26-28, 30-34, 39-42 and 62

Claims 26-28, 30-34, 39-42 and 62 were rejected under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Applicants traverse this rejection. In particular, independent claim 30 recites "a receiver that has a unique alpha-numeric name associated therewith." The Office Action has conceded that Clayton et al. fails to disclose a receiver having a unique alpha-numeric name associated therewith. The Office Action relies on Osmani et al. as curing the deficiencies of Clayton et al. In particular, the Office Action points to a passage at Col. 17, lines 12-17 of Osmani et al. as suggesting using the claimed receiver in Clayton et al. This reliance is misplaced. The passage in question states:

> The generic phone number of the radiotelephone (MIN 1 & 2) along with it's (sic) unique electronic serial number (ESN) are sent to the system [cellular system 100] to process the request for validity. However, in order to initiate this action of requesting a phone call, the radiotelephone must first obtain service. (emphasis added and bracketed material added)

The passage states that the ESN is sent to the system 100. The sending of data strongly indicates

that the passage is referring to a transmitter 207 of the radiotelephone and not a receiver of the radiotelephone. The Office Action has noted that Applicants' Amendment filed on September 14, 2004 referred to the above Osmani et al. passage as indicating that Osmani et al. disclosed a transceiver that sent an ESN. Upon further review, it is apparent that Applicants' Amendment inadvertently made reference to a "transceiver" instead of a "transmitter." FIG. 3 and column 6, lines 27-34 clearly show that Osmani et al.'s radiotelephone 101 has a receiver 205 and a transmitter 207 that are separate from one another. The receiver 205 and transmitter 207 are referred to collectively as a transceiver by Osmani et al. (Col. 6, lines 32-34). Since transmitter 207 can send signals to another radiotelephone 101 and receiver 205 cannot, Osmani et al. discloses that only transmitter 207 sends an ESN. Accordingly, there is no suggestion in Osmani et al. to alter Clayton et al.'s receiver to have "a unique alpha-numeric name associated therewith." Thus, the rejection is improper and should be withdrawn.

Assuming for arguments sake that Osmani et al. did disclose having an ESN assigned to receiver 205, there is still no motivation in Osmani et al. to alter Clayton et al.'s receiver to have its ESN assigned to Clayton et al.'s receiver. Osmani et al. regards radiotelephones that have generic telephone numbers (Col. 16, ll. 23 – Col. 17, l. 3). One problem with using radiotelephones with generic telephone numbers is that an individual radiotelephone cannot be paged without paging other unwanted radiotelephones with the same generic telephone number. Thus, an individual radiotelephone cannot receive an incoming phone call without havoc being created. (Col. 17, lines 6-11). Osmani et al. solves this problem by using the ESN of each radiotelephone to distinguish one from the other. (Col. 17, lines 12-17). In contrast to Osmani et al., Clayton et al. does not disclose using radiotelephones with generic telephone numbers. Since

Clayton et al. does not have a problem with telephones receiving incoming phone calls, there is no need to use the ESN methodology outlined in Osmani et al. Since there is no motivation in Osmani et al. to alter Clayton et al. so that Clayton et al.'s receiver has a unique alpha-numeric name associated therewith, the rejection is improper and should be withdrawn.

Claim 62 is patentable over Clayton et al. and Osmani et al. for the additional reason that neither Clayton et al. nor Osmani et al. discloses or suggests altering Clayton et al.'s receiver to use a unique alpha-numeric name to check if a user of the receiver is a subscriber. It is noted that the Office Action has not disputed this assertion. Without suggestion to alter Clayton et al.'s receiver to use a unique alpha-numeric name to check if a user of the receiver is a subscriber, the rejection is improper and should be withdrawn.

2. Claims 43-50

Claims 43-50 were rejected under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Applicants traverse this rejection. Independent claim 43 recites a "telematics interface means for providing telematics applications." Since the recited "telematics interface means" is in the form of a means-plus-function element, the "telematics interface means" covers the telematics interface device 210 described in Applicants' specification and equivalents thereof pursuant to 35 U.S.C. § 112, sixth paragraph. As shown in FIG. 3 of Applicants' Specification, the telematics interface device 210 includes a receiver device partitioning system 212 with data channel and data service decoders 226 and 228. Clayton et al. fails to disclose a receiving device partitioning system 212 as shown in FIG. 3 and described on pages 9 and 10 of Applicants' Specification and equivalents thereof. It is noted that the Office Action has mentioned in the rejection of claims 35, 47 and 68 that Clayton et al. has a receiver

device partitioning system per FIG. 2 and passages at Col. 8, lines 30-67 and Col. 10, lines 25-36. However, a review of FIG. 2 and the two passages fails to reveal a receiving device partitioning system that includes a data channel decoder 226 and a data service decoder 228 as described in Applicants' Specification and equivalents thereto. Since Osmani et al. does not disclose or suggest altering Clayton et al. to use a receiving device partitioning system 212 as shown in FIG. 3 and described on pages 9 and 10 of Applicants' Specification and equivalents thereof, the rejection is improper and should be withdrawn.

The rejection is improper for the additional reason that Clayton et al. fails to disclose a telematics interface means that includes Applicants' receiver 216 or equivalents thereto that includes an electronic serial number as described on page 14 of Applicants' Specification. As mentioned above in Section D.1., Clayton et al. fails to disclose a receiver that has a unique alpha-numeric name associated therewith. In addition, Clayton et al. fails to use a receiver that uses a unique alpha-numeric name to check if a user of the receiver is a subscriber. As mentioned above in Section D.1, Osmani et al. also fails to suggest altering Clayton et al. to use a receiver that either 1) has a unique alpha-numeric name associated therewith or 2) uses a unique alpha-numeric name to check if a user of the receiver is a subscriber. Accordingly, the rejection is improper and should be withdrawn.

The rejection of claim 44 is improper because Clayton et al. and Osmani et al. each fail to suggest altering Clayton et al. to use a receiver structure that covers the recited receiver 216 of Applicants' Specification and equivalents thereto as noted above. It is noted that the Office Action refers to Clayton et al.'s receiver as corresponding to the structure of receiver 216 as described in Applicants' Specification and equivalents thereto. However, Applicants' disclosed

receiver generates a raw data stream which contains additional telematics data which must be processed by receiver device partitioning system 212 (Page 9, lines 7-10). Since neither Clayton et al. nor Osmani et al. suggest using such a receiver in Clayton et al.'s device, the rejection is improper and should be withdrawn.

The rejection of claim 47 is improper because Clayton et al. and Osmani et al. fail to suggest altering Clayton et al. to use a receiver device partitioning means that covers the recited receiver device partitioning system 212 and equivalents thereof as mentioned above.

3. Claims 63-72

Claims 63-72 were rejected under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Claims 63 and 67-70 have been canceled and so their rejections have been rendered moot and should be withdrawn. Regarding claims 64-66 and 71-72, claim 71 has been rewritten in independent form and claims 64-66 and 72 have been amended so as to depend from claim 71. Claim 71 recites a receiver device partitioning system that includes a data channel decoder that conducts channel decoding of the digital data and a data service decoder that converts the digital data to a format that is functionally usable for the telematics interface device. For reasons similar to those given above in Section D.2, Clayton et al. does not disclose the claimed data channel decoder and the data service decoder. Since Osmani et al. does not suggest altering Clayton et al. to use the claimed data channel decoder and the data service decoder, the rejection of claim 71 is improper and should be withdrawn.

As mentioned above, claim 71 has been amended so as to be in independent form. Since the amendment adds information that was inherently present in the claim, the amendment is not related to patentability. *See, Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd,*

535 U.S. 722 (2002) (hereinafter *Festo II)*. In addition, the amendments for claims 64-66 and 71 are being made to provide more coverage for the system of claim 71 and so are not related to patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002) (hereinafter *Festo I*).

4. Claims 73-80

Claims 73-80 were rejected under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Claims 73, 77 and 78 have been canceled and so their rejections have been rendered moot and should be withdrawn. Regarding claims 74-76, 79 and 80, claim 79 has been rewritten in independent form and claims 74-76 and 80 have been amended so as to depend from claim 79. Claim 79 recites a receiver device partitioning system that includes a data channel decoder that conducts channel decoding of the digital data and a data service decoder that converts the digital data to a format that is functionally usable for the telematics interface device. For the same reasons given above in Section D.3, Clayton et al. does not disclose the claimed data channel decoder and the data service decoder. Since Osmani et al. does not suggest altering Clayton et al. to use the claimed data channel decoder and the data service decoder, the rejection of claim 79 is improper and should be withdrawn.

As mentioned above, claim 79 has been amended so as to be in independent form. Since the amendment adds information that was inherently present in the claim, the amendment is not related to patentability. See, *Festo II.* In addition, the amendments for claims 74-76 and 80 are being made to provide more coverage for the system of claim 79 and so are not related to patentability as defined in *Festo I.*

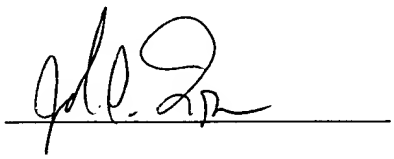
5. **Claims 81-84**

Claims 81-84 were rejected under 35 U.S.C. § 103 as being obvious in view of Clayton et al. and Osmani et al. Applicants traverse this rejection. Independent claim 81 recites a two-way satellite digital audio radio system that includes "a button that when depressed explicitly indicates a dislike of an item." The Office Action has relied on the "BUY" button on Clayton et al.'s multimedia device 20 as disclosing the claimed button. Applicants disagree. The claim states that depression of the button "indicates a dislike of an item" (emphasis supplied). A person buying an item by depressing Clayton et al.'s "BUY" does not necessarily mean that the person explicitly dislikes the item bought. Since Osmani et al. also does not suggest altering Clayton et al. to include a button that explicitly expresses dislike of an item when depressed, the rejection is improper and should be withdrawn.

CONCLUSION

In view of the arguments above, Applicants respectfully submit that all of the pending claims 26-28, 30-50, 62, 64-66, 71, 72, 74-76 and 79-84 are in condition for allowance and seeks an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,



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